

MEMORANDUM

December 9, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: EDWARD YEN
Senior Associate County Counsel
Health Services Division

RE: Ramon S. Melendez v. Los Angeles County Metropolitan
Transportation Authority, et al.
Los Angeles Superior Court - Norwalk Branch
Case No. VC042307

DATE OF
INCIDENT: September 14, 2003

AUTHORITY
REQUESTED: County will receive between \$37,040.08 and \$66,143.00

COUNTY
DEPARTMENT: DEPARTMENT OF HEALTH SERVICES

CLAIMS BOARD ACTION:



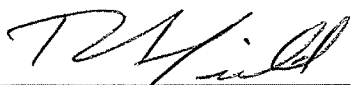
Approve



Disapprove

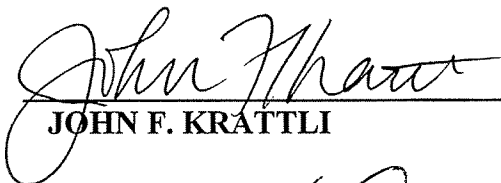


Recommend to Board of
Supervisors for Approval



Chief Administrative Office

ROCKY ARMFIELD



County Counsel

JOHN F. KRATTLI



Auditor-Controller

MARIA M. OMS

on January 10, 2005

SUMMARY

This is a recommendation to compromise the County of Los Angeles' medical services bill to Ramon S. Melendez for life saving medical services provided to Mr. Melendez during the period of September 14, 2003, through October 27, 2003, for an amount up to \$66,143.00, depending on circumstances as set forth herein.

LEGAL PRINCIPLES

After a verdict in an underlying claim, a plaintiff and a public defendant may request the court reduce the amounts that a third-party payor which paid for health care services involved in the underlying action can recover by liens or subrogation.

SUMMARY OF FACTS

This matter arises from an accident involving Plaintiff Ramon S. Melendez and the Los Angeles County Metropolitan Transportation Authority ("MTA"). After the accident, Mr. Melendez was transported to St. Francis Medical Center where he received life saving medical services from September 14, 2003, through October 27, 2003. The total charges for those services were \$442,974.72. Under the Trauma Center Service Agreement, Los Angeles County ("County") has paid St. Francis \$66,143.00 for services provided to Mr. Melendez due to his indigent status. The accident left Mr. Melendez disabled, and he received further services at Rancho Los Amigos National Rehabilitation Center. Medi-Cal has paid \$96,769.71 for those services. It is anticipated that Mr. Melendez will have continuing care needs costing between \$2 and \$5 million for the rest of his life.

After the accident, Mr. Melendez filed a lawsuit against the MTA. In August 2005, Mr. Melendez won a judgment for \$12 million, which was reduced to a net judgment of \$5.6 million due to his comparative negligence. It is possible that, as this matter proceeds through post-verdict proceedings, the amount Mr. Melendez actually receives will be reduced. The County is being treated by the parties as a lien claimant.

DAMAGES

The County has rights to pursue payment for medical services provided to Mr. Melendez. The County paid St. Francis \$66,143.00 for Mr. Melendez's care.

STATUS OF CASE

After the judgment, Plaintiff's counsel and counsel for Defendant MTA, requested the Court reduce the amounts the County and the State (through Medi-Cal) can recover by liens or subrogation claims pursuant to Government Code section 985. Under section 985, a public defendant may bring a motion to limit the amount that a collateral source of payment for medical services may recover.

The County is arguably a collateral source of payment because it provided nonfederal public funds to a health care provider for care covered by the lawsuit. Because of this involvement, any potential liens or subrogation rights the County may have to Plaintiff's judgment is susceptible to reduction by the Court minimally by 44%, and possibly by an even larger amount. (The 44% represents attorney's fees and costs, which under section 985 can be subtracted from a collateral sources reimbursement.) To limit the reduction, and to avoid the risks associated with judicial determination of the payment amount, County Counsel initiated settlement negotiations with Plaintiff's counsel to maximize the County's reimbursement from the judgment.

The terms to this proposed agreement are as follows:

Plaintiff shall pay to the County \$66,143.00 in consideration for the County's agreement to settle and release all claims related to medical services provided by St. Francis Medical Center, provided that Plaintiff's net judgment remains \$5.6 million.

If Plaintiff's net judgment is reduced from \$5.6 million, then Plaintiff shall reduce the payment to the County by the same percentage as the judgment is reduced. However, if the reduced judgment is between \$1 million to \$5.6 million, the payment to the County shall not be reduced to less than \$37,040.08. This is the likely amount the court would have awarded at the hearing on the section 985 request.

Finally, if Plaintiff's judgment is reduced to \$1 million or less, then Plaintiff's payment to the County will be reduced by at least 83%. If the Plaintiff receives nothing, then the County will not recover as well. This ensures that the Plaintiff would have sufficient funds to pay for his future medical services.

A hearing (Order to Show Cause) has been set by Judge Higa in the Los Angeles Superior Court - Norwalk Branch, Department K, for December 14, 2005, to report the status of the settlement agreement.

EVALUATION

Although not perfectly clear, it is quite possible that the Court could limit to \$37,040.08 or less the County's right to collect from the Plaintiff. Thus, the proposed settlement protects the County's interest by assuring at least that amount, unless the Plaintiff's judgment is significantly reduced through post verdict motions or appeal. County and Plaintiff have reached a tentative settlement agreement subject to approval based on the terms identified above. Thus, settlement provides the County with a potential recovery of a higher amount than the Court could award while simultaneously limiting the risk of a lower payment. As such, our office and the Department of Health Services recommend this settlement.

APPROVED:

A handwritten signature in black ink, appearing to read "Rick K. Mason", is written over a horizontal line.

RICHARD K. MASON

Assistant County Counsel

RKM:EY